

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 03226/511001; SUN030087									
	Application Number 10/622,035-Conf. #2254	Filed July 16, 2003									
	First Named Inventor Mihir Y. Sambhus et al.										
	Art Unit 2162	Examiner D. Y. Myint									
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table><tbody><tr><td><input type="checkbox"/> applicant /inventor.</td><td>_____ /Robert P. Lord/ Signature</td></tr><tr><td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td><td>_____ Robert P. Lord Typed or printed name</td></tr><tr><td><input checked="" type="checkbox"/> attorney or agent of record. Registration number 46,479</td><td>_____ (713) 228-8600 Telephone number</td></tr><tr><td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</td><td>_____ September 27, 2007 Date</td></tr></tbody></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>				<input type="checkbox"/> applicant /inventor.	_____ /Robert P. Lord/ Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	_____ Robert P. Lord Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. Registration number 46,479	_____ (713) 228-8600 Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____	_____ September 27, 2007 Date
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Mihir Y. Sambhus, et al.

Confirmation No.: 2254

Application No.: 10/622,035

Art Unit: 2162

Filed: July 16, 2003

Examiner: D. Y. Myint

For: METHOD AND SYSTEM FOR  
CUSTOMIZABLE CLIENT AWARE  
CONTENT SELECTION AND RENDERING  
IN A PORTAL SERVER

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Commissioner for Patents  
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**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Claims 1, 5-6, and 28-36 are pending. Claims 1, 5, 29, 30, 33, and 34 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Pub. No. 2002/0107891 ("Leamon"). Claims 6, 31, and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Leamon in view of U.S. Patent No. 6,781,609 ("Barker"). Claims 28, 32, and 36 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Leamon in view of U.S. Patent Application Pub. No. 2004/0205567 ("Nielsen").

Applicants submit that the Examiner has not satisfied the requirements of MPEP §§ 2131 and 2143. Specifically, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131. Further, to establish a *prima facie* case of obviousness, "the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP § 2143.

Independent claims 1, 29, and 33 recite, in part:

obtaining a first markup of the first channel of content and a second markup of the second channel of content, wherein the first markup is encoded in a generic markup language and *the second markup is encoded in a device-specific markup language associated with an access device*;

forwarding the first markup to a rendering engine to obtain a third markup of the first channel of content, wherein the third markup is encoded in the device-specific markup language;

*aggregating* the second markup and the third markup to create a front page.

**1. Leamon does not describe the “second markup” recited in the claims.**

As Applicants have previously noted, the claims require that the second markup of the second channel of content, *as obtained, already be encoded* in the *device-specific* markup language. This reading of the claims is fully consistent with the specification. *See, e.g.*, Specification as filed, p. 14, lines 10-12 (clearly describing the difference between “rendering” and “non-rendering” content providers).

The Examiner is suggesting that Leamon describes these limitations at paragraphs [0025]-[0026] and Figures 3-4. *See* Office Action dated July 17, 2007 (“latest Office Action”), pp. 2-4, 9-12. Applicants submit that the Examiner is mischaracterizing the cited passages. In fact, the Examiner is using a selective reading of the passages to imply a teaching that is opposite to what the passages actually describe.

Specifically, the Examiner is focusing on Leamon’s teaching that the “rendering engine 60 identifies, in step 102, the device that originated the request by reading a code embedded in the request.” Leamon, [0025]. The Examiner is suggesting that this sentence describes obtaining content in a device-specific language. However, the Examiner is ignoring the *following* sentences, which state that the “rendering engine 60 fetches, in step 104, the content

requested by the user message. *The content is formatted in the standard language.*” *Ibid* (emphasis added). Clearly, Leamon’s content is obtained in a standard language, not a device-specific language as the Examiner is claiming. Leamon only identifies the requesting device type so that the standard language can later be *converted* to a device-specific language.

In fact, Leamon teaches that *all* content is obtained in a standard language and must be converted to a device-specific language. For example:

- “The process of the invention adopts a *standard information markup language* format (XMTML in one preferred embodiment) for which the transformation process is adapted.” *Ibid*, [0018] (emphasis added).
- “The request causes information to be accessed and transmitted by the application 50, 52 electronically *in a standard markup language format...*” *Ibid*, [0019] (emphasis added).
- “The rendering engine 60 performs an object-oriented transformation process that uses the *standard language pre-formatted information as its input.*” *Ibid*, [0020] (emphasis added).
- “Once the information is retrieved from the proprietary application *in the standard format language* (e.g., XHTML basic), the information encounters the transform process in rendering engine 60.” *Ibid*, [0023] (emphasis added).
- “In step 108, the transformation on the *standard format information* is performed, *converting* it into a format language compatible with the user device.” *Ibid*, [0026] (emphasis added).
- “The data is retrieved and transmitted electronically *in a standard markup language format.*” *Ibid*, [0028] (emphasis added).
- “The data is retrieved in response to the request, in step 704, *formatted in a standard markup language, regardless of the identified interface.*” *Ibid*, [0029] (emphasis added).

Clearly, while Leamon’s content may take different forms (e.g., for small, medium, or large devices), the content is *always* obtained in a *standard* language, regardless of the identified interface. Thus, Leamon cannot possibly describe “obtaining ... a second markup of the second channel of content, *wherein ... the second markup is encoded in a device-specific markup language* associated with an access device” as required by the claims.

2. **Leamon does not describe the “aggregating” recited in the claims.**

Even assuming *arguendo* that Leamon describes the second markup recited in the claims, the claims further require *aggregating* the second markup and the third markup to create a front page. Aggregating refers to gathering elements into a mass, sum, or whole. *See, e.g.*, The American Heritage® Dictionary of the English Language: Fourth Edition, 2000, as cited at <http://www.bartleby.com>. Thus, the claims expressly require combining two separate markups into a single markup.

The Examiner is suggesting that Leamon describes aggregating markups in paragraph [0026]. *See* latest Office Action, p. 4. To the contrary, while the Examiner is required to give the claims their broadest reasonable interpretation, the Examiner is clearly ignoring the plain meaning of the term “aggregating.” Although Leamon describes multiple possible sources of content, content from each source is handled entirely independently. *See, e.g.*, Leamon, [0028] (“An application operating on client 40C ... requests data, via the Internet, from an API, on client 50C or client 52C.”) (emphasis added). Leamon does not describe *aggregating* content from the multiple possible sources. In fact, Leamon does not describe aggregating any sort of content whatsoever. In relying on Leamon to describe the “aggregating” recited in the claims, the Examiner is mischaracterizing Leamon or reading the claims overly broad, either of which is improper.

3. **Barker and Nielsen do not supply what Leamon lacks.**

As discussed above, Leamon does not describe each and every element of independent claims 1, 29, and 33. Further, Barker and Nielsen do not supply what Leamon lacks. Barker describes using one markup document for user interface content, and another markup document for information about media resources associated with the user interface content. Although these

documents are used together, the documents are never *aggregated* into a single markup. To the contrary, a principal goal of Barker's invention is to keep the documents separate – Barker effectively *teaches away* from aggregating markups. *See, e.g.,* Barker, abstract and col. 22, lines 27-45. Further, Nielsen is merely directed to generic XML handling in a test environment (*see* Nielsen, [0001] and Fig. 1), and is completely silent with respect to rendering and aggregating device-specific markups. Clearly, neither Barker nor Nielsen can possibly supply what Leamon lacks.

4. **The Examiner has not satisfied the requirements of MPEP §§ 2131 and 2143.**

As discussed above, Leamon does not describe each and every element of independent claims 1, 29, and 33. Clearly, in relying on Leamon to reject claims 1, 5, 29, 30, 33, and 34, the Examiner has not satisfied the requirements of MPEP § 2131. Further, as discussed above, Barker and Nielsen do not supply what Leamon lacks. Therefore, the Examiner has also not satisfied the requirements of MPEP § 2143. Accordingly, a favorable decision from the panel is respectfully requested.

Dated: September 27, 2007

Respectfully submitted,

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